

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the First
Amended Accusation Against:**

Harrison M. Robbins, M.D.

**Physician's and Surgeon's
Certificate No. C 29549**

Respondent

Case No. 800-2014-008834

DECISION

**The attached Stipulated Surrender of License and Order is hereby adopted
as the Decision and Order of the Medical Board of California, Department of
Consumer Affairs, State of California.**

This Decision shall become effective at 5:00 p.m. on November 1, 2018.

IT IS SO ORDERED October 25, 2018.

MEDICAL BOARD OF CALIFORNIA

By:


**Kimberly Kirchmeyer
Executive Director**

1 XAVIER BECERRA
Attorney General of California
2 MATTHEW M. DAVIS
Supervising Deputy Attorney General
3 MARTIN W. HAGAN
Deputy Attorney General
4 State Bar No. 155553
600 West Broadway, Suite 1800
5 San Diego, CA 92101
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6 San Diego, CA 92186-5266
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8 *Attorneys for Complainant*

10 **BEFORE THE**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the First Amended Accusation
Against:

15 **HARRISON M. ROBBINS, M.D.**
16 **P.O. Box 235407**
Encinitas, CA 92023

17 **Physician's and Surgeon's Certificate No. C29549**

18 **Respondent.**

Case No. 800-2014-008834

OAH No. 2018020780

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
23 of California (Board). She brought this action solely in her official capacity and is represented in
24 this matter by Xavier Becerra, Attorney General of the State of California, by Martin W. Hagan,
25 Deputy Attorney General.

26 2. Harrison M. Robbins, M.D. (Respondent) is represented in this proceeding by Robert
27 W. Frank, Esq., of Neil Dymott, whose address is 110 West A Street, Suite 1200, San Diego, CA
28 92101-4959.

1 3. On or about October 4, 1967, the Board issued Physician's and Surgeon's Certificate
2 No. C29549 to Respondent. The Physician's and Surgeon's Certificate was in full force and
3 effect at all times relevant to the charges brought in First Amended Accusation No. 800-2014-
4 008834 and expired on July 31, 2018, and has not been renewed.

5 **JURISDICTION**

6 4. On October 6, 2017, Accusation No. 800-2014-008834 was filed before the Board.
7 The true and correct copy of Accusation No. 800-2014-008834 and all other statutorily required
8 documents were properly served on Respondent on October 6, 2017. Respondent timely filed his
9 Notice of Defense contesting the Accusation.

10 5. On September 21, 2018, First Amended Accusation No. 800-2014-008834 was filed
11 before the Board, and is currently pending against Respondent. A true and correct copy of First
12 Amended Accusation No. 800-2014-008834, along with a true and correct copy of a
13 Supplemental Statement to Respondent were properly served on Respondent on September 21,
14 2018. A true and correct copy of First Amended Accusation No. 800-2014-008834 is attached
15 hereto as Exhibit A and incorporated by reference, as if fully set forth herein.

16 **ADVISEMENT AND WAIVERS**

17 6. Respondent has carefully read, fully discussed with counsel, and understands the
18 charges and allegations in First Amended Accusation No. 800-2014-008834. Respondent also
19 has carefully read, fully discussed with counsel, and understands the effects of this Stipulated
20 Surrender of License and Order.

21 7. Respondent is fully aware of his legal rights in this matter, including the right to a
22 hearing on the charges and allegations in the First Amended Accusation; the right to confront and
23 cross-examine the witnesses against him; the right to present evidence and to testify on his own
24 behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the
25 production of documents; the right to reconsideration and court review of an adverse decision;
26 and all other rights accorded by the California Administrative Procedure Act and other applicable
27 laws.

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8. Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent does not contest that, at an administrative hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations contained in First Amended Accusation No. 800-2014-008834, a true and correct copy of which is attached hereto as Exhibit "A," and that he has thereby subjected his Physician's and Surgeon's Certificate No. C29549 to disciplinary action. Nevertheless, due to current and foreseeable health conditions, Respondent hereby surrenders his Physician's and Surgeon's Certificate No. C29549 for the Board's formal acceptance.

10. Respondent agrees that his Physician's and Surgeon's Certificate No. C29549 is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

11. Respondent further agrees that if he ever petitions for reinstatement of his Physician's and Surgeon's Certificate No. C29549, or petitions to revoke probation or if an accusation is ever filed against him before the Medical Board of California, all of the charges and allegations contained in First Amended Accusation No. 800-2014-008834 shall be deemed true, correct, and fully admitted by respondent for purposes of any such proceeding or any other licensing proceeding involving respondent in the State of California or elsewhere. The provisions of Business and Professions Code section 2307, subdivision (b)(1), shall apply to any Petition for Reinstatement Respondent may bring under Business and Professions Code section 2307.

12. Respondent understands that by signing this stipulation he enables the Executive Director of the Board to issue an order, on behalf of the Board, accepting the surrender of his Physician's and Surgeon's Certificate No. C29549 without further notice to, or opportunity to be heard by, respondent.

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CONTINGENCY

13. Business and Professions Code section 2224, subdivision (b), provides, in pertinent part, that the Medical Board "shall delegate to its executive director the authority to adopt a ... stipulation for surrender of a license."

14. This Stipulated Surrender of License and Disciplinary Order shall be subject to approval of the Executive Director on behalf of the Medical Board. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be submitted to the Executive Director for her consideration in the above-entitled matter and, further, that the Executive Director shall have a reasonable period of time in which to consider and act on this Stipulated Surrender of License and Disciplinary Order after receiving it. By signing this stipulation, Respondent fully understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the time the Executive Director, on behalf of the Medical Board, considers and acts upon it.

15. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Executive Director on behalf of the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Surrender of License and Disciplinary Order, the Executive Director and/or the Board may receive oral and written communications from its staff and/or the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the Executive Director, the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving respondent. In the event that the Executive Director on behalf of the Board does not, in her discretion, approve and adopt this Stipulated Surrender of License and Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees that should this Stipulated Surrender of License and Disciplinary Order be rejected for any reason by the Executive Director on behalf of the Board, respondent will assert no claim that the

1 Executive Director, the Board, or any member thereof, was prejudiced by its/his/her review,
2 discussion and/or consideration of this Stipulated Surrender of License and Disciplinary Order or
3 of any matter or matters related hereto.

4 ADDITIONAL PROVISIONS

5 16. This Stipulated Surrender of License and Disciplinary Order is intended by the parties
6 herein to be an integrated writing representing the complete, final and exclusive embodiment of
7 the agreements of the parties in the above-entitled matter.

8 17. The parties agree that copies of this Stipulated Surrender of License and Disciplinary
9 Order, including copies of the signatures of the parties, may be used in lieu of original documents
10 and signatures and, further, that such copies shall have the same force and effect as originals.

11 18. In consideration of the foregoing admissions and stipulations, the parties agree that
12 the Board may, without further notice or formal proceeding, issue and enter the following Order
13 on behalf of the Board:

14 ORDER

15 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. C29549, issued
16 to Respondent Harrison M. Robbins, M.D., is surrendered and accepted by the Medical Board of
17 California.

18 1. The surrender of Respondent's Physician's and Surgeon's Certificate and the
19 acceptance of the surrendered license by the Board shall constitute the imposition of discipline
20 against Respondent. This stipulation constitutes a record of the discipline and shall become a part
21 of Respondent's license history with the Medical Board of California.

22 2. Respondent shall lose all rights and privileges as a Physician and Surgeon in
23 California as of the effective date of the Board's Decision and Disciplinary Order.

24 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was
25 issued, his wall certificate on or before the effective date of the Decision and Disciplinary Order.

26 4. If Respondent ever files an application for licensure or a petition for reinstatement in
27 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
28 comply with all the laws, regulations and procedures for reinstatement of a revoked or

1 surrendered license in effect at the time the petition is filed, and all of the charges and allegations
2 contained in First Amended Accusation No. 800-2014-008834 shall be deemed to be true, correct
3 and admitted by Respondent when the Board determines whether to grant or deny the petition.
4 The provisions of Business and Professions Code section 2307, subdivision (b)(1), shall apply to
5 any Petition for Reinstatement Respondent may bring under Business and Professions Code
6 section 2307.


7 5. Based on the Board's prior action taken against Respondent, pursuant to California
8 Business and Professions Code sections 820 and 821, and Respondent's failure to appear for an
9 evaluation under Business and Professions Code sections 820, as ordered by the Board on April
10 13 and May 21, 2018, any future reinstatement of Respondent's Physician's and Surgeon's
11 Certificate No. C29549 shall be governed by the procedures contained in Article 12.5 of Chapter
12 1 of Division 2 of the California Business and Professions Code. (Bus. & Prof. Code, § 823.)

13 ACCEPTANCE

14 I have carefully read the above Stipulated Surrender of License and Order and have fully
15 discussed it with my attorney, Robert W. Frank, Esq. I understand the stipulation and the effect it
16 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of
17 License and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound
18 by the Decision and Disciplinary Order of the Medical Board of California.

19
20 DATED:

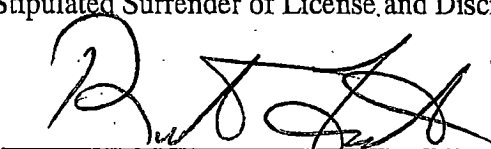
10-8-18


HARRISON M. ROBBINS, M.D.
Respondent

22 I have read and fully discussed with Respondent Harrison M. Robbins, M.D., the terms and
23 conditions and other matters contained in this Stipulated Surrender of License and Disciplinary
24 Order. I approve its form and content.

25 DATED:

10-8-18


ROBERT W. FRANK, ESQ.
Attorney for Respondent

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28 ////

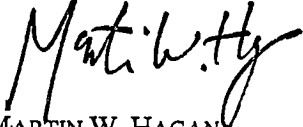
ENDORSEMENT

The foregoing Stipulated Surrender of License and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

Dated: 10-8-2018

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General


MARTIN W. HAGAN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 800-2014-008834

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO September 20 18
BY K. Voong ANALYST

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Attorneys for Complainant

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended Accusation
Against:

HARRISON M. ROBBINS, M.D.
P.O. Box 235407
Encinitas, CA 92023

Physician's and Surgeon's License
No. C29549,

Respondent.

Case No. 800-2014-008834

FIRST AMENDED ACCUSATION

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this First Amended Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about October 4, 1967, the Medical Board issued Physician's and Surgeon's License Number C29549 to Harrison M. Robbins, M.D. (Respondent). The Physician's and Surgeon's License was in full force and effect at all times relevant to the charges brought herein and expired on July 31, 2018, and has not been renewed.

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4.. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, be placed on probation and required to pay the costs of probation monitoring, be publicly reprimanded and ordered to complete relevant educational courses, or have such other action taken in relation to discipline as the Board or an administrative law judge deems proper.

"(1) "Board" means the Physician Assistant Board.

"(4) "Physician assistant" means a person who meets the requirements of this chapter and is licensed by the board.

“(6) “Supervision” means that a licensed physician and surgeon oversees the activities of, and accepts responsibility for, the medical services rendered by a physician assistant.

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2

1 “(7) “Regulations” means the rules and regulations as set forth in Chapter 13.8
2 (commencing with Section 1399.500) of Title 16 of the California Code of
3 Regulations.

4 “...
5 “(10) “Delegation of services agreement” means the writing that delegates to a
6 physician assistant from a supervising physician the medical services the physician
7 assistant is authorized to perform consistent with subdivision (a) of Section
8 1399.540 of Title 16 of the California Code of Regulations.

9 “(11) “Other specified medical services” means tests or examinations
10 performed or ordered by a physician assistant practicing in compliance with this
11 chapter or regulations of the Medical Board of California promulgated under this
12 chapter.

13 “(b) A physician assistant acts as an agent of the supervising physician when
14 performing any activity authorized by this chapter or regulations adopted under
15 this chapter.”

16 6. Section 3502 of the Code states:

17 “(a) Notwithstanding any other provision of law, a physician assistant may perform
18 those medical services as set forth by the regulations adopted under this chapter when the
19 services are rendered under the supervision of a licensed physician and surgeon who is not
20 subject to a disciplinary condition imposed by the board prohibiting that supervision or
21 prohibiting the employment of a physician assistant.

22 “(b) Notwithstanding any other provision of law, a physician assistant
23 performing medical services under the supervision of a physician and surgeon may
24 assist a doctor of podiatric medicine who is a partner, shareholder, or employee in
25 the same medical group as the supervising physician and surgeon. A physician
26 assistant who assists a doctor of podiatric medicine pursuant to this subdivision shall
27 do so only according to patient-specific orders from the supervising physician and
28 surgeon. [¶] The supervising physician and surgeon shall be physically available to

1 the physician assistant for consultation when such assistance is rendered. A
2 physician assistant assisting a doctor of podiatric medicine shall be limited to
3 performing those duties included within the scope of practice of a doctor of
4 podiatric medicine.

5 "(c)(1) A physician assistant and his or her supervising physician and
6 surgeon shall establish written guidelines for the adequate supervision of the
7 physician assistant. This requirement may be satisfied by the supervising physician
8 and surgeon adopting protocols for some or all of the tasks performed by the
9 physician assistant. The protocols adopted pursuant to this subdivision shall comply
10 with the following requirements:

11 "(A) A protocol governing diagnosis and management shall, at a minimum,
12 include the presence or absence of symptoms, signs, and other data necessary to
13 establish a diagnosis or assessment, any appropriate tests or studies to order, drugs
14 to recommend to the patient, and education to be provided to the patient.

15 "(B) A protocol governing procedures shall set forth the information to be
16 provided to the patient, the nature of the consent to be obtained from the patient,
17 the preparation and technique of the procedure, and the follow-up care.

18 "(C) Protocols shall be developed by the supervising physician and surgeon
19 or adopted from, or referenced to, texts or other sources.

20 "(D) Protocols shall be signed and dated by the supervising physician and
21 surgeon and the physician assistant.

22 "(2) The supervising physician and surgeon shall review, countersign, and
23 date a sample consisting of, at a minimum, 5 percent of the medical records of
24 patients treated by the physician assistant functioning under the protocols within
25 30 days of the date of treatment by the physician assistant. The physician and
26 surgeon shall select for review those cases that by diagnosis, problem, treatment,
27 or procedure represent, in his or her judgment, the most significant risk to the
28 patient.

1 “(3) Notwithstanding any other provision of law, the Medical Board of
2 California or board may establish other alternative mechanisms for the adequate
3 supervision of the physician assistant.

4 “(d) No medical services may be performed under this chapter in any of the
5 following areas:

6 “(1) The determination of the refractive states of the human eye, or the
7 fitting or adaptation of lenses or frames for the aid thereof.

8 “(2) The prescribing or directing the use of, or using, any optical device in
9 connection with ocular exercises, visual training, or orthoptics.

10 “(3) The prescribing of contact lenses for, or the fitting or adaptation of
11 contact lenses to, the human eye.

12 “(4) The practice of dentistry or dental hygiene or the work of a dental
13 auxiliary as defined in Chapter 4 (commencing with Section 1600):

14 “(e) This section shall not be construed in a manner that shall preclude the
15 performance of routine visual screening as defined in Section 3501.”

16 7. Section 2052 of the Code, states:

17 “(a) Notwithstanding Section 146, any person who practices or attempts to
18 practice, or who advertises or holds himself or herself out as practicing, any system
19 or mode of treating the sick or afflicted in this state, or who diagnoses, treats, operates
20 for, or prescribes for any ailment, blemish, deformity, disease, disfigurement,
21 disorder, injury, or other physical or mental condition of any person, without having
22 at the time of so doing a valid, unrevoked, or unsuspended certificate as provided in
23 this chapter or without being authorized to perform the act pursuant to a certificate
24 obtained in accordance with some other provision of law, is guilty of a public offense,
25 punishable by a fine not exceeding ten thousand dollars (\$10,000), by imprisonment
26 pursuant to subdivision (h) of Section 1170 of the Penal Code, by imprisonment in a
27 county jail not exceeding one year, or by both the fine and either imprisonment.

28 ////

1 “(b) Any person who conspires with or aids or abets another to commit any act
2 described in subdivision (a) is guilty of a public offense, subject to the punishment
3 described in that subdivision.

4 “(c) The remedy provided in this section shall not preclude any other remedy
5 provided by law.”

6 8. Section 2216.3 of the Code, states:

7 “(a) An outpatient setting accredited pursuant to Section 1248.1 of the
8 Health and Safety Code shall report an adverse event to the board no later than five
9 days after the adverse event has been detected, or, if that event is an ongoing urgent
10 or emergent threat to the welfare, health, or safety of patients, personnel, or visitors,
11 not later than 24 hours after the adverse event has been detected. Disclosure of
12 individually identifiable patient information shall be consistent with applicable law.

13 “(b) For the purposes of this section, “adverse event” has the same
14 meaning as in subdivision (b) of Section 1729.1 of the Health and Safety Code.”

15 9. Section 2234 of the Code, states:

16 “The board shall take action against any licensee who is charged with
17 unprofessional conduct. In addition to other provisions of this article,
18 unprofessional conduct includes, but is not limited to, the following:

19 “(a) Violating or attempting to violate, directly or indirectly, assisting in or
20 abetting the violation of, or conspiring to violate any provision of this chapter.

21 “(b) Gross negligence.

22 “(c) Repeated negligent acts. To be repeated, there must be two or more
23 negligent acts or omissions. An initial negligent act or omission followed by a
24 separate and distinct departure from the applicable standard of care shall constitute
25 repeated negligent acts.

26 “(1) An initial negligent diagnosis followed by an act or omission
27 medically appropriate for that negligent diagnosis of the patient shall constitute a
28 single negligent act.

1 “(2) When the standard of care requires a change in the diagnosis, act, or
2 omission that constitutes the negligent act described in paragraph (1), including, but
3 not limited to, a reexamination of the diagnosis or a change in treatment, and the
4 licensee’s conduct departs from the applicable standard of care, each departure
5 constitutes a separate and distinct breach of the standard of care.

6 “... ”

7 “(f) Any action or conduct which would have warranted the denial of a
8 certificate.

9 “... ”

10 10. Unprofessional conduct under California Business and Professions Code section
11 2234 is conduct which breaches the rules or ethical code of the medical profession, or conduct
12 which is unbecoming to a member in good standing of the medical profession, and which
13 demonstrates an unfitness to practice medicine.²

14 11. Section 2264 of the Code, states:

15 “The employing, directly or indirectly, the aiding, or the abetting of any
16 unlicensed person or any suspended, revoked, or unlicensed practitioner to engage
17 in the practice of medicine or any other mode of treating the sick or afflicted which
18 requires a license to practice constitutes unprofessional conduct.”

19 12. Section 2271 of the Code, states:

20 “Any advertising in violation of Section 17500 relating to false or
21 misleading advertising, constitutes unprofessional conduct.

22 13. Section 651 of the Code, states:

23 “(a) It is unlawful for any person licensed under this division or under any
24 initiative act referred to in this division to disseminate or cause to be disseminated
25 any form of public communication containing a false, fraudulent, misleading, or
26 deceptive statement, claim, or image for the purpose of or likely to induce, directly
27 or indirectly, the rendering of professional services or furnishing of products in

28 ² *Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.

1 connection with the professional practice or business for which he or she is
2 licensed. A "public communication" as used in this section includes, but is not
3 limited to, communication by means of mail, television, radio, motion picture,
4 newspaper, book, list or directory of healing arts practitioners, Internet, or other
5 electronic communication.

6 "(b) A false, fraudulent, misleading, or deceptive statement, claim, or image
7 includes a statement or claim that does any of the following:

8 "(1) Contains a misrepresentation of fact.

9 "(2) Is likely to mislead or deceive because of a failure to disclose material
10 facts.

11 "..."

12 "(5) Contains other representations or implications that in reasonable
13 probability will cause an ordinarily prudent person to misunderstand or be
14 deceived.

15 "..."

16 "(8)(e) Any person so licensed may not use any professional card,
17 professional announcement card, office sign, letterhead, telephone directory listing,
18 medical list, medical directory listing, or a similar professional notice or device if it
19 includes a statement or claim that is false, fraudulent, misleading, or deceptive
20 within the meaning of subdivision (b).

21 "(g) Any violation of this section by a person so licensed shall constitute
22 good cause for revocation or suspension of his or her license or other disciplinary
23 action.

24 "(h) Advertising by any person so licensed may include the following:

25 "(1) A statement of the name of the practitioner.

26 "(2) A statement of addresses and telephone numbers of the offices
27 maintained by the practitioner.

28 ////

1 “(3) A statement of office hours regularly maintained by the practitioner.

2 “(4) A statement of languages, other than English, fluently spoken by the
3 practitioner or a person in the practitioner’s office.

4 “(5)(A) A statement that the practitioner is certified by a private or public
5 board or agency or a statement that the practitioner limits his or her practice to
6 specific fields.

7 “(B) A statement of certification by a practitioner licensed under Chapter
8 7 (commencing with Section 3000) shall only include a statement that he or she is
9 certified or eligible for certification by a private or public board or parent
10 association recognized by that practitioner’s licensing board.

11 “(C) A physician and surgeon licensed under Chapter 5 (commencing with
12 Section 2000) by the Medical Board of California may include a statement that he
13 or she limits his or her practice to specific fields, but shall not include a statement
14 that he or she is certified or eligible for certification by a private or public board
15 or parent association, including, but not limited to, a multidisciplinary board or
16 association, unless that board or association is (i) an American Board of Medical
17 Specialties member board, (ii) a board or association with equivalent
18 requirements approved by that physician and surgeon’s licensing board, or (iii) a
19 board or association with an Accreditation Council for Graduate Medical
20 Education approved postgraduate training program that provides complete
21 training in that specialty or subspecialty. A physician and surgeon licensed under
22 Chapter 5 (commencing with Section 2000) by the Medical Board of California
23 who is certified by an organization other than a board or association referred to in
24 clause (i), (ii), or (iii) shall not use the term “board certified” in reference to that
25 certification, unless the physician and surgeon is also licensed under Chapter 4
26 (commencing with Section 1600) and the use of the term “board certified” in
27 reference to that certification is in accordance with subparagraph (A). A physician
28 and surgeon licensed under Chapter 5 (commencing with Section 2000) by the

1 Medical Board of California who is certified by a board or association referred to
2 in clause (i), (ii), or (iii) shall not use the term "board certified" unless the full
3 name of the certifying board is also used and given comparable prominence with
4 the term "board certified" in the statement.

5 "For purposes of this subparagraph, a 'multidisciplinary board or
6 association' means an educational certifying body that has a psychometrically
7 valid testing process, as determined by the Medical Board of California, for
8 certifying medical doctors and other health care professionals that is based on the
9 applicant's education, training, and experience.

10 "For purposes of the term 'board certified,' as used in this subparagraph,
11 the terms "board" and "association" mean an organization that is an American
12 Board of Medical Specialties member board, an organization with equivalent
13 requirements approved by a physician and surgeon's licensing board, or an
14 organization with an Accreditation Council for Graduate Medical Education
15 approved postgraduate training program that provides complete training in a
16 specialty or subspecialty.

17 "..."

18 14. Section 17500 of the Code states:

19 "It is unlawful for any person, firm, corporation or association, or any
20 employee thereof with intent directly or indirectly to dispose of real or personal
21 property or to perform services, professional or otherwise, or anything of any
22 nature whatsoever or to induce the public to enter into any obligation relating
23 thereto, to make or disseminate or cause to be made or disseminated before the
24 public in this state, or to make or disseminate or cause to be made or disseminated
25 from this state before the public in any state, in any newspaper or other
26 publication, or any advertising device, or by public outcry or proclamation, or in
27 any other manner or means whatever, including over the Internet, any statement,
28 concerning that real or personal property or those services, professional or

1 otherwise, or concerning any circumstance or matter of fact connected with the
2 proposed performance or disposition thereof, which is untrue or misleading, and
3 which is known, or which by the exercise of reasonable care should be known; to
4 be untrue or misleading, or for any person, firm, or corporation to so make or
5 disseminate or cause to be so made or disseminated any such statement as part of
6 a plan or scheme with the intent not to sell that personal property or those
7 services, professional or otherwise, so advertised at the price stated therein, or as
8 so advertised. Any violation of the provisions of this section is a misdemeanor
9 punishable by imprisonment in the county jail not exceeding six months, or by a
10 fine not exceeding two thousand five hundred dollars (\$2,500), or by both that
11 imprisonment and fine."

12 15. California Code of Regulations, title 16, section 1399.540, states:

13 "(a) A physician assistant may only provide those medical services which
14 he or she is competent to perform and which are consistent with the physician
15 assistant's education, training, and experience, and which are delegated in writing
16 by a supervising physician who is responsible for the patients cared for by that
17 physician assistant.

18 "(b) The writing which delegates the medical services shall be known as a
19 delegation of services agreement. A delegation of services agreement shall be
20 signed and dated by the physician assistant and each supervising physician. A
21 delegation of services agreement may be signed by more than one supervising
22 physician only if the same medical services have been delegated by each
23 supervising physician. A physician assistant may provide medical services pursuant
24 to more than one delegation of services agreement.

25 "...
26 "(d) A physician assistant shall consult with a physician regarding any task,
27 procedure or diagnostic problem which the physician assistant determines exceeds
28 his or her level of competence or shall refer such cases to a physician."

1 16. California Code of Regulations, title 16, section 1399.541, states:

2 "Because physician assistant practice is directed by a supervising physician,
3 and a physician assistant acts as an agent for that physician, the orders given and
4 tasks performed by a physician assistant shall be considered the same as if they had
5 been given and performed by the supervising physician. Unless otherwise
6 specified in these regulations or in the delegation or protocols, these orders may be
7 initiated without the prior patient specific order of the supervising physician. In
8 any setting, including for example, any licensed health facility, out-patient settings,
9 patients' residences, residential facilities, and hospices, as applicable, a physician
10 assistant may, pursuant to a delegation and protocols where present:

11 "(a) Take a patient history; perform a physical examination and make an
12 assessment and diagnosis therefrom; initiate, review and revise treatment and
13 therapy plans including plans for those services described in Section 1399.541(b)
14 through Section 1399.541(i) inclusive; and record and present pertinent data in a
15 manner meaningful to the physician.

16 "(b) Order or transmit an order for x-ray, other studies, therapeutic diets,
17 physical therapy, occupational therapy, respiratory therapy, and nursing services.

18 "(c) Order, transmit an order for, perform, or assist in the performance of
19 laboratory procedures, screening procedures and therapeutic procedures.

20 "(d) Recognize and evaluate situations which call for immediate attention of
21 a physician and institute, when necessary, treatment procedures essential for the life
22 of the patient.

23 "(e) Instruct and counsel patients regarding matters pertaining to their
24 physical and mental health. Counseling may include topics such as medications,
25 diets, social habits, family planning, normal growth and development, aging, and
26 understanding of and long-term management of their diseases.

27 "(f) Initiate arrangements for admissions, complete forms and charts
28 pertinent to the patient's medical record, and provide services to patients requiring

1 continuing care, including patients at home.

2 "(g) Initiate and facilitate the referral of patients to the appropriate health
3 facilities, agencies, and resources of the community.

4 "(h) Administer or provide medication to a patient, or issue or transmit drug
5 orders orally or in writing in accordance with the provisions of subdivisions (a)-(f),
6 inclusive, of Section 3502.1 of the Code.

7 "(i)(1) Perform surgical procedures without the personal presence of the
8 supervising physician which are customarily performed under local anesthesia.
9 Prior to delegating any such surgical procedures, the supervising physician shall
10 review documentation which indicates that the physician assistant is trained to
11 perform the surgical procedures. All other surgical procedures requiring other forms
12 of anesthesia may be performed by a physician assistant only in the personal
13 presence of an approved supervising physician.

14 "(2) A physician assistant may also act as first or second assistant in surgery
15 under the supervision of an approved supervising physician. The physician
16 assistant may so act without the personal presence of the supervising physician, if
17 the supervising physician is immediately available to the physician assistant.
18 'Immediately available' means the physician is physically accessible and able to
19 return to the patient, without any delay, upon the request of the physician assistant
20 to address any situation requiring the supervising physician's services."

21 17. California Code of Regulations, title 16, section 1399.542, states:

22 "The delegation of procedures to a physician assistant under Section
23 1399.541, subsections (b) and (c) shall not relieve the supervising physician of
24 primary continued responsibility for the welfare of the patient."

25 18. California Code of Regulations, title 16, section 1399.545, states:

26 "(a) A supervising physician shall be available in person or by electronic
27 communication at all times when the physician assistant is caring for patients.

28 ////

1 “(b) A supervising physician shall delegate to a physician assistant only those
2 tasks and procedures consistent with the supervising physician’s specialty or usual
3 and customary practice and with the patient’s health and condition.

4 “(c) A supervising physician shall observe or review evidence of the
5 physician assistant’s performance of all tasks and procedures to be delegated to
6 the physician assistant until assured of competency.

7 “(d) The physician assistant and the supervising physician shall establish in
8 writing transport and back-up procedures for the immediate care of patients who are
9 in need of emergency care beyond the physician assistant’s scope of practice for
10 such times when a supervising physician is not on the premises.

11 “(e) A physician assistant and his or her supervising physician shall establish
12 in writing guidelines for the adequate supervision of the physician assistant which
13 shall include one or more of the following mechanisms:

14 “(1) Examination of the patient by a supervising physician the same day as
15 care is given by the physician assistant;

16 “(2) Countersignature and dating of all medical records written by the
17 physician assistant within thirty (30) days that the care was given by the physician
18 assistant;

19 “(3) The supervising physician may adopt protocols to govern the
20 performance of a physician assistant for some or all tasks. The minimum content for
21 a protocol governing diagnosis and management as referred to in this section shall
22 include the presence or absence of symptoms, signs, and other data necessary to
23 establish a diagnosis or assessment, any appropriate tests or studies to order, drugs
24 to recommend to the patient, and education to be given the patient. For protocols
25 governing procedures, the protocol shall state the information to be given the
26 patient, the nature of the consent to be obtained from the patient, the preparation
27 and technique of the procedure, and the follow-up care. Protocols shall be
28 developed by the physician, adopted from, or referenced to, texts or other sources.

1. Protocols shall be signed and dated by the supervising physician and the physician
2. assistant. The supervising physician shall review, countersign, and date a minimum
3. of 5% sample of medical records of patients treated by the physician assistant
4. functioning under these protocols within thirty (30) days. The physician shall select
5. for review those cases which by diagnosis, problem, treatment or procedure
6. represent, in his or her judgment, the most significant risk to the patient;

7. "(4) Other mechanisms approved in advance by the board.

8. "(f) The supervising physician has continuing responsibility to follow the
9. progress of the patient and to make sure that the physician assistant does not
10. function autonomously. The supervising physician shall be responsible for all
11. medical services provided by a physician assistant under his or her supervision."

12. 19. Section 820 of the Code states:

13. "Whenever it appears that any person holding a license, certificate or
14. permit under this division or under any initiative act referred to in this division may
15. be unable to practice his or her profession safely because the licentiate's ability to
16. practice is impaired due to mental illness, or physical illness affecting competency,
17. the licensing agency may order the licentiate to be examined by one or more
18. physicians and surgeons or psychologists designated by the agency. The report of
19. the examiners shall be made available to the licentiate and may be received as direct
20. evidence in proceedings conducted pursuant to Section 822."

21. 20. Section 821 of the Code states:

22. "The licentiate's failure to comply with an order issued under Section 820
23. shall constitute grounds for the suspension or revocation of the licentiate's
24. certificate or license."

25. ////

26. ////

27. ////

28. ////

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Gross Negligence)**

3 21. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined
4 by section 2234, subdivision (b), 3501 and 3502, of the Code, and California Code of
5 Regulations, title 16, sections 1399.540, 1399.541, and 1399.545, in that he committed gross
6 negligence, as the supervising physician, in his care and treatment of patient C.D. as more
7 particularly alleged hereinafter:

8 **THE PACIFIC LIPOSCULPTURE OPERATION**

9 22. On or about August 3, 2010, Physician Assistant R.D. formed Pacific Liposculpture,
10 Inc., a duly registered domestic corporation in the State of California. According to documents
11 filed with the State of California, the address for Pacific Liposculpture, Inc., was listed as 8899
12 University Center Lane, Suite 250, San Diego, CA 92122, and the stated purpose of the business
13 was "Liposculpture" which was later changed to "Management Services for Liposculpture
14 office." Physician Assistant R.D. was identified as holding the positions of Chief Executive
15 Officer, Secretary and Financial Officer for Pacific Liposculpture, Inc.

16 23. After issues arose with Physician Assistant R.D.'s former "supervising physician,"
17 Physician Assistant R.D. sought out another physician to fill the role as his new "supervising
18 physician," and as the "Medical Director" in furtherance of the Pacific Liposculpture³ enterprise.
19 An advertisement was placed on Craigslist and responses were received from approximately five
20 candidates, one of whom was Dr. J.B. Dr. J.B. was ultimately selected as the "supervising
21 physician" and "Medical Director" primarily because he had no interest in being involved in
22 patient care or in performing any of the liposuction procedures. A delegation of services
23 agreement was prepared and it was agreed between the two that Physician Assistant R.D. would
24 perform all of the liposuction procedures at Pacific Liposculpture.

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26
27 ³ Unless otherwise noted, Pacific Liposculpture shall generally refer to the Pacific
28 Liposculpture operation including, but not limited to, Pacific Liposculpture, Pacific Liposculpture,
Inc., Pacific Lipo, Davis Medical, and respondent and Physician Assistant R.D., as individuals.

1 24. On or about December 21, 2010, Dr. J.B. applied for a fictitious name permit (FNP)
2 for the business name of Pacific Liposculpture, which also had the business location of 8899
3 University Center Lane, Suite 250, San Diego, CA 92122. The FNP request was approved by the
4 Board, effective January 14, 2011, with an expiration date of January 30, 2013, unless renewed.
5 According to Physician Assistant R.D., he was employed by Pacific Liposculpture as an
6 independent contractor under his dba name of Davis Medical, wherein he performed "all the lipo
7 procedures" at Pacific Liposculpture.

8 25. On or about September of 2013, Dr. J.B. retired and, in doing so, filed a Statement of
9 Abandonment for the fictitious name of Pacific Liposculpture.⁴ Shortly thereafter, respondent
10 was hired to take Dr. J.B.'s place as the new "supervising physician" and "Medical Director" for
11 the Pacific Liposculpture enterprise. In doing so, respondent applied for a new fictitious name
12 permit for Pacific Liposculpture which was granted by the Board. When respondent accepted the
13 position of "supervising physician" and "Medical Director" for the Pacific Liposculpture
14 enterprise, respondent knew that Physician Assistant R.D. was performing all of the liposuction
15 procedures and he continued to perform all the liposuction procedures at Pacific Liposculpture
16 until his license was revoked by the Physician's Assistant Board effective June 20, 2016.
17 Respondent also applied for, and was issued, another FNP under the name of Pacific Lipo on
18 March 8, 2016.

19 26. Physician Assistant R.D. has no formal surgical training. As a physician assistant, he
20 has not attended an accredited medical school nor has he ever finished a medical internship
21 program, surgical residency program or any fellowship program in cosmetic and/or plastic
22 surgery as his "Director of Surgery" title implies. According to Physician Assistant R.D.'s
23 curriculum vitae, he received his "cosmetic surgery" experience as physician assistant while
24 working at Beverly Hills Liposculpture and then with a Dr. K.C. Beverly Hills Liposculpture was
25 established by Dr. C.B., a radiologist, who ultimately surrendered his medical license after being
26 convicted of practicing medicine without a license by aiding and abetting the practice of medicine

27 ⁴ Dr. J.B. surrendered his medical license effective September 14, 2016, amid allegations
28 that he, among other things, failed to properly supervise Physician Assistant R.D., and allowed
him to operate autonomously in performing unsupervised liposuction surgeries.

1 by an unlicensed person. In surrendering his medical license, Dr. C.B. admitted to aiding and
2 abetting the unlicensed practice of medicine. Physician Assistant R.D. subsequently worked with
3 Dr. K.C. from approximately March 2009 to September 2009. Dr. K.C. was formerly board
4 certified in emergency medicine and had no formal training in cosmetic or plastic surgery. His
5 liposuction experience was limited to a couple of two to three day courses in liposuction in 2007
6 and 2009. After his experience with Dr. K.C. ended, Physician Assistant R.D. hired Dr. J.B. as
7 his "supervising physician" and "Medical Director" whose experience in liposuction was limited
8 to a weekend course. Dr. J.B. "retired" in September 2013 at which point respondent became the
9 new supervising physician and Medical Director for Pacific Liposculpture.

10 27. As of January 20, 2015, Pacific Liposculpture's website at www.pacificlipo.com
11 identified Physician Assistant R.D. as the "Director of Surgery at Pacific Liposculpture."⁵ The
12 Pacific Liposculpture website boasted of "over 15,000 procedures performed" and had several
13 photographs and videos of Physician Assistant R.D. in his surgical scrubs. Additionally, the
14 website claimed that "Dr. Robbins supervises a team of highly qualified liposuctionists with
15 combined experience of well over 15,000 procedures."⁶ Respondent never performed a single
16 liposuction surgery while he was the supervising physician for Physician Assistant R.D. and he
17 had never performed a single liposuction procedure while he was the Medical Director of Pacific
18 Liposculpture and Pacific Lipo.

19 ////

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21 ////

22 ////

23 ////

24 ⁵ During his subject interview of November 19, 2015, respondent was asked whether he
25 felt that Physician Assistant R.D.'s "Director of Surgery" title was misleading and he answered
26 "Absolutely." When asked why he felt the "Director of Surgery" title was misleading, respondent
replied "[b]ecause it implies a knowledge, skill and experience that ah may be exaggerated."

27 ⁶ During his subject interview of November 19, 2015, respondent was also asked about the
28 representation that he "supervises a team of highly qualified liposuctionists..." and he admitted
that the representation was false because there was only one liposuctionist, and that was Physician
Assistant R.D.

1 **COMPLAINT AGAINST RESPONDENT**

2 28. On or about October 7, 2014, the Board received an anonymous complaint which
3 stated, in pertinent part:

4 "I am writing this letter concerning the Pacific Liposculpture Center located in San
5 Diego ... The center's medical director is a man named Dr. Harrison Robbins,
6 [Physician Assistant R.D.] who is listed as Director of Surgery performs all of the
7 patient examinations and surgery at the center. [¶] I am personally aware of at least
8 three patients who had liposuction at the center under local anesthesia and never saw
9 a physician ..."

10 **FIRST UNDERCOVER VISIT**

11 29. On or about May 12, 2015, Department of Consumer Affairs, Health Quality
12 Investigation Unit ("HQU") Investigators A.B. and T.C. visited Pacific Liposculpture located at
13 8899 University Center Lane, Suite 250, in an undercover capacity. After filling out some forms,
14 both investigators were escorted back to a consultation room. Shortly thereafter, Physician
15 Assistant R.D. entered the room and introduced himself. After a brief examination of Investigator
16 A.B.'s arms, Physician Assistant R.D. told her that she would be a viable candidate for
17 liposculpture. When asked specifics about the procedure, Physician Assistant R.D. stated that all
18 procedures were performed in their credentialed on-site surgery center under local anesthesia, that
19 the procedure would take approximately three hours, and he would be the one performing the
20 procedure. When asked if there was a doctor that would be present, Physician Assistant R.D.
21 stated there would not be a doctor who would be performing or assisting with the procedure
22 which is why they used a local anesthesia and not general anesthesia; and that with a local
23 anesthesia the procedure was much safer which permitted him to be able to perform the
24 procedure. Physician Assistant R.D. further stated there was a doctor who comes "in and out" of
25 the office, but he does not oversee the procedure, and there was no accounting system to know
26 when the doctor would be in the office. In concluding the consult, Physician Assistant R.D. gave
27 Investigator A.B. an estimate of \$2,500.00 to do liposuction on her arms.

28 **PATIENT C.D.**

29 30. On or about January 28, 2015, patient C.D., a then-37-year-old male consulted with
30 Physician Assistant R.D. regarding liposuction of his abdomen and flanks. The initial

1 consultation note for this visit indicated, among other things, that patient C.D. had no past or
2 ongoing medical problems and no prior surgical history. Patient C.D.'s height was listed as six
3 feet and four inches, his weight as 222 pounds, and a "goal weight" of 190 pounds.

4 31. On or about July 17, 2015, patient C.D. returned for a second consult that was
5 performed by Physician Assistant R.D. and liposuction surgery was scheduled for August 14,
6 2015.

7 32. On or about August 14, 2015, at approximately 12:10 p.m., patient C.D. arrived at
8 Pacific Liposculpture for his liposuction surgery. Patient C.D. was provided with an Informed
9 Consent Liposuction form which set forth, among other things, the numerous risks associated
10 with liposuction surgery⁷ and his consent for the liposuction surgery. The consent section of the
11 form provided, in pertinent part:

12 "I hereby authorize Dr. Harrison Robbins, MD, OR [R.D.] PA and such
13 qualified assistants as may be selected to perform the procedures of treatment.

14 * Please be advised that California allows a certified and trained "PA"
15 (Physician Assistant) to perform medical procedures customarily performed under
16 local anesthesia without the personal physical presence of the supervising physician
17 provided that the physician is available in person or by electronic communication.
18 (See Business & Professions Code § 3502 and California Code of Regulations §§
19 1399.541 & 1399.545.)"

20 According to Physician Assistant R.D.'s chart note, patient C.D.'s weight was 218 pounds
21 and his blood pressure was 138/82 with an unremarkable physical examination. Patient C.D. was
22 given Atenolol (a beta blocker) 100 mg and Keflex (an antibiotic) 1000 mg pre-operatively. The
23 time at which the Atenolol was given is not documented. The undated Delegation of Services
24 Agreement provided by respondent authorized Physician Assistant R.D. to inject up to 60 mg/kg
25 of tumescent local anesthesia. Tumescent local anesthesia was infiltrated by Physician Assistant
26 R.D. who used cannulas to aspirate the fat through different skin incisions. Respondent was not
27 in the procedure room while the liposuction procedure was being performed by Physician
28

⁷ The risks were identified as, among other things bleeding, infection, skin scarring,
change in skin sensation, skin discoloration/swelling, skin contour irregularities, asymmetry,
seroma, surgical anesthesia, pain, skin sensitivity, skin loss, delayed healing, allergic reactions,
fat necrosis, umbilicus, pulmonary complications including pulmonary emboli which "can be life-
threatening or fatal in some circumstances," fluid overload, and unsatisfactory result.

1 Assistant R.D. According to the Liposuction Procedure Note, 625 cc's of fat was aspirated out of
2 the left and right abdomen (a total of 1250 cc's) and 300 cc's of fat was aspirated out of the left
3 and right flank areas (a total of 600 cc's). Following the liposuction surgery, patient C.D. was
4 provided with Keflex 500 mg q.i.d. (four times a day) for seven days, tramadol (Ultram)⁸ 50 mg
5 (#12) p.r.n. (as needed) every six hours for pain, Dexamethasone 4 mg dose pack, and was given
6 a Toradol 60 mg injection. Patient C.D. was discharged at 4:55 p.m. The Liposuction Procedure
7 Note was counter-signed by respondent but there was no date listing when the procedure note was
8 counter-signed.

9 33. On or about August 14, 2015, at 7:47 p.m., Physician Assistant R.D. received a phone
10 call from patient's wife reporting that patient C.D. started feeling "lightheaded" about one hour
11 prior to her text and he was not feeling better despite rest and Gatorade. According to Physician
12 Assistant R.D.'s chart note, patient C.D. was awake and alert but still felt dizzy when standing.
13 Physician Assistant R.D.'s assessment was "probable vasovagal episode post-op." Patient C.D.'s
14 wife was told to go to the local emergency room as soon as possible. At approximately 7:59 p.m.,
15 Physician Assistant R.D. texted the following to respondent:

16 "[Patient C.D.] had Lipo midsection today. Did fine until he got home and felt light
17 headed. He did not tell his wife that he was having the procedure. She called me
18 saying [C.D.] had been lightheaded for the past hour. He is awake and talking. I sent
19 him to the ER as a precaution. They are going to Sharp Memorial near downtown
20 now. Will keep you posted."

21 Respondent did not respond to Physician Assistant R.D.'s text above which prompted
22 Physician Assistant R.D. to send another text to respondent asking, "Hi Dr. Robbins, did you get
23 message?" There was no response from respondent to the second text of 7:59 p.m. Patient C.D.
24 and his wife arrived at the Sharp Memorial Hospital Emergency Department at approximately
25 9:00 p.m. Patient C.D. was noted as "very ill-appearing, diaphoretic, and extremely pale."
26 Patient C.D. was started on a liter of IV fluids, labs were obtained, and his hemoglobin was
27 recorded as 12.3. The initial impression was syncope following liposculpture and mild anemia.
28 Patient C.D.'s wife texted Physician Assistant R.D. at 10:48 p.m. to advise him that "[patient

⁸ Tramadol (Ultram®) is a centrally acting synthetic opioid that is classified as a Schedule IV controlled substance under the Controlled Substances Act. When properly prescribed and indicated is used for the management of moderate to moderately severe pain in adults.

1 C.D.] just tried to stand up and [i]t didn't go well [-] He couldn't even sit up and blood (diluted
2 blood) went all over floor [-] They're admitting him for the night." Physician Assistant R.D.
3 texted respondent again, at 10:53 p.m., to provide the following update, "He got up to go home
4 and felt lightheaded [-] They hadn't re-wrapped him so he saw his blood [-] They decided to keep
5 him overnight as a precaution." Respondent did not respond to respondent's third text of 10:53
6 p.m. Patient C.D. was admitted to Sharp Memorial Hospital at approximately 10:57 p.m., for
7 further examination.

8 34. On or about August 15, 2015, at 9:21 p.m., respondent sent a text to Physician
9 Assistant R.D. asking whether there were "[a]ny further reports on our patient?" with Physician
10 Assistant R.D. replying "all quiet for now."

11 35. On or about August 16, 2015, patient C.D. was seen in consultation by Dr. A.C., a
12 board certified plastic surgeon. As part of his assessment, Dr. A.C. noted that patient C.D. "was
13 admitted after a syncopal episode, most likely due to bleeding, which was evidenced by the drop
14 in hemoglobin." The consultation note indicated "patient states he went to an outpatient medical
15 office where he had the procedure in the office under local anesthesia by a physician's assistant"
16 and "[t]he patient stated that the physician's assistant did not have a medical doctor present at the
17 time of the procedure." Dr. A.C. recommended a "CT scan of the abdomen to assess for a
18 possible hematoma or retroperitoneal bleed." Patient C.D. had a CT scan of his abdomen/pelvis
19 later in the afternoon which revealed "a 3.6 x 9.3 x 19.7 cm hematoma in the left anterior
20 abdominal wall overlying the rectus muscle."

21 36. On or about August 17, 2015, patient C.D. was discharged from Sharp Memorial
22 Hospital at approximately 10:43 a.m. The discharge summary noted, among other things, that
23 patient C.D. had been "markedly orthostatic even after IV fluid resuscitation," that his
24 hemoglobin "eventually stabilized around 9.0," a CT scan revealed "a 3.6 cm x 9.3 cm x 19.7 cm
25 in the left anterior abdominal wall..." and that "it is possible that he [patient C.D.] may need
26 evacuation of the hematoma." Patient C.D. was discharged to home, provided with iron sulfate,
27 and it was recommended that he obtain follow up in one week.

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1 **SECOND UNDERCOVER VISIT**

2 37. On or about August 6, 2015, HQUI Investigator J.P. visited Pacific Liposuction
3 located at 8899 University Center Lane, Suite 250, in an undercover capacity. Investigator J.P.
4 was greeted by S.S., the front office manager. Investigator asked S.S. some general questions
5 about the procedures performed at Pacific Liposuction. S.S. indicated, among other things, that
6 Physician Assistant R.D. was a physician assistant who performed all the procedures and that he
7 would also do any consultation.

8 **FOLLOW UP VISITS WITH PATIENT C.D.**

9 38. During the period of on or about August 18, 2015, to January 18, 2016, patient C.D.
10 had seven follow up visits at Pacific Liposculpture with Physician Assistant R.D. with respondent
11 documented as being present at some of the visits. These visits took place on August 18 (the
12 follow up note was counter-signed by respondent but there was no date listing when the follow up
13 note was counter-signed), August 21 (45 cc's of fluid drained from hematoma; follow up note
14 was counter-signed by respondent but there was no date listing when the follow up note was
15 counter-signed), August 25 (30 cc's of fluid drained from hematoma; follow up note was counter-
16 signed by respondent but there was no date listing when the follow up note was counter-signed),
17 August 28 (subcutaneous hematoma evacuated with 350 cc's of fluid being aspirated; patient
18 C.D. provided with Keflex 500 mg q.i.d. for 7 days, dexamethasone 4 mg dose pack, Ultram 50
19 mg as needed for pain, melatonin and Tylenol, the procedure note was counter-signed by
20 respondent but there was no date listing when the procedure note was counter-signed), September
21 1 (the follow up note was counter-signed by respondent but there was no date listing when the
22 follow up note was counter-signed), September 8 (the follow up note was counter-signed by
23 respondent but there was no date listing when the follow up note was counter-signed), September
24 29 (the follow up note was counter-signed by respondent but there was no date listing when the
25 follow up note was counter-signed), November 16, 2015, and January 18, 2016.

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1 39. Respondent committed gross negligence⁹ in his care and treatment of C.D., which
2 included, but was not limited to, the following:

3 (a) Respondent failed to produce a signed Delegation of Services
4 Agreement between himself and his physician assistant;

5 (b) Respondent authorized concentrations of lidocaine up to 60 mg/kg
6 which put his patients, including patient C.D., at risk of lidocaine toxicity;

7 (c) Respondent's physician assistant gave patient C.D. 100 mg of atenolol
8 without medical indication prior to his liposuction surgery on August 14, 2015;

9 (d) Respondent's physician assistant provided patient C.D. antibiotics on
10 August 14, August 25, and September 25, 2015, all of which were without medical
11 indication;

12 (e) Respondent routinely allowed his physician assistant to independently
13 perform liposuctions surgeries without adequate supervision including the
14 liposuction surgery performed on patient C.D. on August 14, 2015;

15 (f) Respondent failed to provide adequate and direct supervision to his
16 physician assistant while he was operating as a physician assistant at Pacific
17 Liposculpture;

18 (g) Respondent failed to properly supervise his physician assistant when he
19 failed to respond to his physician assistant's texts in a timely fashion on the
20 evening of August 14, 2015;

21 (h) Respondent failed to provide timely notice to the Medical Board of
22 California regarding patient C.D.'s post-operative hospital admission for a surgical
23 complication on August 14, 2015; and

24 (i) Respondent failed to have an adequately trained and/or directly
25 available back-up physician.

26 ⁹ Respondent is responsible for any acts of his physician assistant because "a physician
27 assistant acts as an agent of the supervising physician..." and, as such, "the orders given and tasks
28 performed by a physician assistant shall be considered the same as if they had been given and
performed by the supervising physician." (Bus. & Prof. Code, § 3501, subd. (b); and Cal. Code
Regs., tit. 16, § 1399.541.)

1 SECOND CAUSE FOR DISCIPLINE

2 (Repeated Negligent Acts)

3 40. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
4 defined by section 2234, subdivision (c), 3501 and 3502, of the Code, and California Code of
5 Regulations, title 16, sections 1399.540, 1399.541, and 1399.545, in that he committed repeated
6 negligent acts as the supervising physician, by failing to properly supervise Physician Assistant
7 R.D., in his care and treatment of patient C.D., as more particularly alleged hereinafter:

8 41. Respondent committed repeated negligent acts in his care and treatment of patient
9 C.D., which included, but was not limited to, the following:

10 (a) Paragraphs 21 through 39, above, are hereby incorporated by reference
11 and realleged as if fully set forth herein;

12 (b) Respondent failed to produce a signed Delegation of Services
13 Agreement between himself and his physician assistant;

14 (c) Respondent authorized concentrations of lidocaine up to 60 mg/kg
15 which put his patients, including patient C.D., at risk of lidocaine toxicity;

16 (d) Respondent's physician assistant gave patient C.D. 100 mg of atenolol
17 without medical indication prior to his liposuction surgery on August 14, 2015;

18 (e) Respondent's physician assistant provided patient C.D. antibiotics on
19 August 14, August 25, and September 25, 2015, all of which were without medical
20 indication;

21 (f) Respondent routinely allowed his physician assistant to independently
22 perform liposuctions surgeries without adequate supervision including the
23 liposuction surgery performed on patient C.D. on August 14, 2015;

24 (g) Respondent failed to provide adequate and direct supervision to his
25 physician assistant while he was operating as a physician assistant at Pacific
26 Liposculpture;

27 ////

28 ////

1 (h) Respondent failed to properly supervise his physician assistant when he
2 failed to respond to his physician assistant's texts in a timely fashion on the
3 evening of August 14, 2015;

4 (i) Respondent failed to provide timely notice to the Medical Board of
5 California regarding patient C.D.'s post-operative hospital admission for a surgical
6 complication on August 14, 2015;

7 (j) Respondent failed to have an adequately trained and/or directly
8 available back-up physician;

9 (k) Respondent failed to provide a date on those chart notes for patient
10 C.D. that he counter-signed; and

11 (l) Respondent claims on his curriculum vitae that he has "American
12 Board Certification" with the "American Board of Cosmetic Surgery" which is not
13 an American Board of Medical Specialties/American Osteopathic Association
14 (ABMS/AOA) member and has not been deemed an equivalent board by the
15 Medical Board of California.

16 **THIRD CAUSE FOR DISCIPLINE**

17 **(Aiding and Abetting Unlicensed Practice of Medicine)**

18 42. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined
19 by section 2052, subdivision (b), 3501 and 3502, of the Code, and California Code of
20 Regulations, title 16, sections 1399.540, 1399.541, and 1399.545, in that he aided and abetted the
21 unlicensed practice of medicine, as more particularly alleged in paragraphs 21 through 39, above,
22 which are incorporated by reference and realleged as if fully set forth herein.

23 **FOURTH CAUSE FOR DISCIPLINE**

24 **(False and/or Misleading Advertising)**

25 43. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
26 defined by sections 651, 2271 and 17500, of the Code, and California Code of Regulations, title
27 16, sections 1399.541, in that he has made and disseminated, or caused to be made and
28 disseminated, false and/or misleading advertising in violation of section 17500 of the Code, as

1 more particularly alleged in paragraph 27, above, which is hereby incorporated by reference and
2 realleged as if fully set forth herein. The false and/or misleading statements include, but are not
3 limited to the following:

4 (a) Physician Assistant R.D. being identified as the "Director of Surgery"
5 or words to that effect which is false and/or misleading because it conveys, among
6 other things, that Physician Assistant R.D. has a higher level of education, training
7 and/or experience than he actually possesses, and/or that he is a licensed physician
8 and surgeon;

9 (b) The statement that "Dr. Robbins supervises a team of highly qualified
10 liposuctionists with combined experience of well over 15,000 procedures" or
11 words to that effect which is false and/or misleading because respondent had only
12 one person performing liposuction, Physician Assistant R.D., and respondent did
13 not actively supervise Physician Assistant R.D.;

14 (c) Respondent claims on his curriculum vitae that he has "American
15 Board Certification" with the "American Board of Cosmetic Surgery" which is not
16 an American Board of Medical Specialties/American Osteopathic Association
17 (ABMS/AOA) member and has not been deemed an equivalent board by the
18 Medical Board of California.

19 **FIFTH CAUSE FOR DISCIPLINE**

20 **(Failure to Maintain Adequate and Accurate Records)**

21 44. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
22 defined by section 2266, of the Code, and California Code of Regulations, title 16, section
23 1399.541, in that respondent failed to maintain adequate and accurate records regarding his care
24 and treatment of patient C.D., as more particularly alleged in paragraphs 21 through 39, above,
25 which are hereby incorporated by reference and realleged as if fully set forth herein.

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1 SIXTH CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct – Failure to Comply with Order of Examination)

3 45. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
4 defined by section 821, of the Code, in that respondent failed to comply with an Order issued
5 pursuant to section 820 of the Code as more particularly alleged hereinafter:

6 46. On or about April 13, 2018, the Board filed an Order Compelling Mental
7 Examination ("Order") pursuant to section 820 of the Code and the Order was served by certified
8 mail to respondent's address of record at P.O. Box 235407, Encinitas, CA 92023. A copy of the
9 order was also sent to respondent's attorney of record on the same date. The Order advised
10 respondent that he was required to submit to a mental examination and such examination was to
11 be conducted within 30 days.

12 47. On or about May 3, 2018, Senior Investigator J.P. of the Department of Consumer
13 Affairs, Division of Investigation, Health Quality Enforcement Unit (HQIU) sent a letter to
14 respondent's attorney advising him of the scheduled date, time, and location, for respondent's
15 examination to be performed by Dr. S.O., a board certified psychiatrist.

16 48. On or about May 4, 2018, a copy of the letter was served on respondent by certified
17 mail and regular mail which advised him of the scheduled date, time, and location, for
18 respondent's examination to be performed by Dr. S.O. Respondent was advised that the
19 examination was scheduled for May 17, 2018, at 1:00 p.m.

20 49. On or about May 14, 2018, Senior Investigator J.P. e-mailed respondent's counsel to
21 remind him about respondent's examination on May 17, 2018, at 1:00 p.m.

22 50. On or about May 15, 2018, Senior Investigator J.P. was advised by respondent's
23 counsel, among other things, that respondent was ill with some type of virus and he might not
24 show up for his scheduled examination.

25 51. On or about May 17, 2018, respondent failed to show up for his scheduled
26 examination. Based on the representation that respondent was ill, and, thus, could not make the
27 examination scheduled for that day, Supervising Investigator E.R. spoke with Dr. S.O. who
28 rescheduled the examination for June 11, 2018.

1 52. On or about May 21, 2018, the Board served respondent and his counsel with an
2 Order Extending Time for Completion of Examination. The Order Extending Time indicated,
3 among other things, that "[d]ue to circumstances beyond your control, the examination was not
4 completed within the 30 days [from April 13, 2018]" and, therefore, the time to complete the
5 examination was extended until June 12, 2018. On this date, Senior Investigator J.P. emailed a
6 confirmation letter regarding the new date for the examination of June 11, 2018, to respondent's
7 counsel and carbon copied respondent on the email. Senior Investigator J.P. also sent the
8 confirmation letter to respondent at his address of record by certified and regular mail.

9 53. Senior Investigator J.P. sent follow up emails to respondent's counsel on June 4 and
10 8, 2018, regarding the upcoming examination.

11 54. On or about June 11, 2018, respondent's counsel, with carbon copy to the Deputy
12 Attorney General assigned to the matter, advised Senior Investigator J.P. that respondent would
13 not be showing up for his scheduled examination with Dr. S.O. Dr. S.O. called Senior
14 Investigator J.P. later in the day to confirm that respondent failed to show up for his scheduled
15 examination that was to take place that day at 1:00 p.m. Respondent failed to comply with the
16 Board's Order which required him to submit to his examination before June 12, 2018.

17 SEVENTH CAUSE FOR DISCIPLINE

18 (General Unprofessional Conduct)

19 55. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
20 defined by section 2234, of the Code, in that he has engaged in conduct which breached the rules
21 or ethical code of the medical profession or which was unbecoming a member in good standing of
22 the medical profession, and which demonstrates an unfitness to practice medicine, as more
23 particularly alleged in paragraphs 21 through 54, above, are hereby incorporated by reference and
24 realleged as if fully set forth herein.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Medical Board of California issue a decision:


4 1. Revoking or suspending Physician's and Surgeon's License Number C29549, issued
5 to respondent Harrison M. Robbins, M.D.;

6 2. Revoking, suspending or denying approval of respondent Harrison M. Robbins,
7 M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code; and
8 advanced practice nurses;

9 3. Ordering respondent Harrison M. Robbins, M.D., if placed on probation, to pay the
10 Board the costs of probation monitoring; and

11 4. Taking such other and further action as deemed necessary and proper.

12
13 DATED: September 21, 2018


14 KIMBERLY KIRCHMEYER
15 Executive Director
16 Medical Board of California
17 Department of Consumer Affairs
18 State of California
19 Complainant

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